

DEPARTMENT OF ENVIRONMENTAL PROTECTION Monthly Enforcement Report for actions during September 2011

DISTRIBUTED: November 8, 2011

This report has been prepared to satisfy a statutory obligation the Maine Department of Environmental Protection has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or <u>peter.j.carney@maine.gov</u> for additional information regarding the activities listed in this report. The full text of most Administrative Consent Agreements is available on the Board of Environmental Protection's website at http://www.maine.gov/dep/bep/agenda.htm.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Board of Environmental Protection and Office of the Attorney General (party followed by location):

Hazardous Waste:

Megquier & Jones, Inc., South Portland, Maine. Megquier & Jones, Inc. ("Megquier & Jones") violated provisions of the Department's rules concerning Standards for Generators of Hazardous Waste by: failing to determine if waste ignitable paint was a hazardous waste; treating waste ignitable paint by evaporation without a license so that it could be disposed of in the solid waste stream when dried; accumulating hazardous waste for more than ninety days; failing to label containers of hazardous waste paint thinner sludges and waste ignitable paint with the words "Hazardous Waste"; failing to keep containers of hazardous waste closed except when adding or removing waste; failing to conduct and document daily inspections for containers of hazardous waste; failing to post "Danger – Unauthorized Personnel Keep Out" signage at all entrances to the facility's hazardous waste storage area; failing to post "No Smoking" signs in areas where ignitable wastes are handled; failing to provide and document a personnel training program for employees who perform hazardous waste duties; failing to develop a contingency plan for hazardous waste management and make annual arrangements for services with local police, fire departments, hospitals and emergency response teams; and failing to provide facility personnel immediate access to an internal alarm or emergency communication device during hazardous waste handling. Subsequent to Department involvement, Megquier & Jones submitted a draft hazardous waste contingency plan, and indicated that it had installed signage and a system for emergency communications at the facility's hazardous waste storage area. To resolve the violations, Megquier & Jones agreed to: perform hazardous waste determinations; maintain an internal alarm or emergency communication device accessible to employees during hazardous waste handling; discontinue evaporating and improper disposal of hazardous waste paint; maintain required signage; label or mark containers of hazardous waste as hazardous waste and with accumulation start dates; close all containers of hazardous waste unless adding or removing waste; conduct and document daily inspections of hazardous waste containers; implement the submitted hazardous waste contingency plan; properly ship for disposal all hazardous waste that has been stored on-site for longer than ninety days; submit an employee training program for review and approval; and submit a written report documenting corrective actions required by the agreement. In addition, Megquier & Jones will pay \$15,000 as a civil monetary penalty pursuant to the terms of a payment plan.

Washburn & Doughty Associates, Inc., Boothbay, Maine. Washburn & Doughty Associates, Inc. ("Washburn & Doughty") violated provisions of the Department's rules concerning *Standards for Generators of Hazardous Waste* by: failing to label containers of hazardous waste with the words "Hazardous Waste" and the date when waste first began accumulating in the container; failing to keep containers of hazardous waste closed except when adding or removing waste; failing to conduct and document daily inspections of hazardous waste; treating or disposing of hazardous waste paint sludge and ignitable paint thinners by evaporation and disposing of dried residues as solid waste; failing to provide a communications device at the hazardous waste storage area; failing to secure the hazardous waste storage area to minimize the possibility for unauthorized entry; failing to post "Danger – Unauthorized Personnel Keep Out" and "No Smoking" signage at the facility's hazardous waste storage area; failing



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to store ignitable hazardous waste at least fifty feet from the facility's property line; failing to have a contingency plan to minimize hazards to human health or the environment from fires, explosions, or releases of hazardous waste; failing to conduct hazardous waste management personnel training for employees working in positions associated with hazardous waste; and failing to maintain copies of hazardous waste manifests and associated land disposal restriction forms. Following Department involvement, Washburn & Doughty submitted correspondence indicating it had taken corrective actions including properly labeling containers of hazardous waste, closing containers of hazardous waste, conducting daily inspections of containers of hazardous waste, ceasing the treatment of hazardous waste paint sludge by evaporation, relocating the hazardous waste storage area to a secured location more than fifty feet from the facility's property line, providing a communications device and proper signage at the hazardous waste storage area, creating a contingency plan, providing personnel training, and obtaining copies of hazardous waste manifests. To resolve the violations, Washburn & Doughty paid \$9,900 as a civil monetary penalty.

Land:

Paul White, Raymond, Maine. Paul White violated Maine's *Natural Resources Protection Act* by disturbing or causing to be disturbed soil adjacent to a great pond, constructing or causing to be constructed a permanent structure adjacent to a great pond, and repairing or altering a permanent structure adjacent to a great pond without first obtaining a permit from the Department. Specifically, White constructed or caused to be constructed an access way within seventy-five feet of Raymond Pond by removing a top layer of forest peat and underlying fill. As the access way neared the pond, it was bordered by a stone retaining wall. In addition, an existing patio located twenty-five feet from the normal high water line of the pond was being reconstructed and a stone retaining wall associated with the patio had been altered. Following Department involvement, White submitted an after-the-fact permit by rule notification to the Department for approval to replace the stone retaining wall associated with the existing patio. The Department approved the permit by rule. In addition, an inspection by Department staff determined that restoration had been completed in accordance with an approved restoration plan. To resolve the violations, White agreed to monitor the survival of planted and impacted vegetation and replace dead or dying vegetation until December 31, 2013, and paid \$1,100 as a civil monetary penalty.

Daniel Williams, Shapleigh, Maine. Daniel Williams violated Maine's *Natural Resources Protection Act* by displacing soil or other material in and adjacent to a great pond, and Maine's *Erosion and Sedimentation Control* law by conducting or causing to be conducted an activity involving the filling, displacing, or exposing of soil or other earthen material without taking measures to prevent the unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, Williams displaced soil in Mousam Lake for a newly constructed dock and boat slip. Soil material was excavated from the bank of the lake for a proposed retaining wall, which was placed in the lake and at another location adjacent to the lake. At the time of a Department inspection, erosion control measures were not installed at the project site. Following Department involvement, Williams restored the altered bank of the lake and adjacent areas in accordance with a restoration plan submitted to and approved by the Department. To resolve the violations, Williams paid \$1,342.60 as a civil monetary penalty.

Water:

Town of Mount Desert, Mount Desert, Maine. The Town of Mount Desert ("Mount Desert") violated provisions of a Department-issued waste discharge license for a wastewater treatment facility by: failing to properly operate



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and maintain the wastewater treatment system in good working order; failing to operate the wastewater treatment system at maximum efficiency; discharging effluent exceeding license limits for pH, total suspended solids, settleable solids, fecal coliform bacteria, daily and monthly average total residual chlorine concentration, and biochemical oxygen demand, and exceeding license limits for monthly average flow of effluent. To resolve the violations, Mount Desert paid \$11,692 as a civil monetary penalty, of which \$9,353 will be paid toward the completion of a supplemental environmental project ("SEP"). The SEP provides funding to the City of Ellsworth Fire HazMat Team to purchase equipment for an accountability system and training for coordination among the Hancock County first responder community.

District Court Enforcement Resolutions (party followed by location):

Land:

State of Maine, Maine Department of Environmental Protection v. Erich Borguss, Bucksport, Maine. In a Default Judgment entered by the court following Erich Borguss's ("Borguss") failure to appear, the court deemed Borguss to have committed violations of Maine's Natural Resources Protection Act by placing fill in and adjacent to a river, stream or brook and placing fill adjacent to a great pond and a violation of the Department's Natural Resources Protection Act Permit By Rule Standards by placing more fill within seventy-five feet of a great pond than required to maintain the integrity of a structure, as alleged in the Department's Complaint. Specifically, the Department alleged that Borguss had placed soil adjacent to Long Pond, which is a great pond, had placed stone in a stream, and placed stone rip rap along the bank of the stream. While Borguss had received a permit by rule from the Department to install a frost wall for a residence, the Department alleged that the total fill placed on the site exceeded that which was necessary to protect the new frost wall. Following Department involvement, Borguss restored the site in accordance with an approved restoration plan. The Judgment requires Borguss to pay \$3,060 as a civil monetary penalty.